Supreme Court, U.S.
FILED

09-859 JAN 15 2010

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No.

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,
Petitioner
v.

MAID OF THE MIST CORPORATION and MAID OF THE MIST STEAMBOAT COMPANY, LTD.,
Respondents

On Petition for Writ of Certiorari
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether appellate courts should provide decisions that consist of more than one sentence.

2. Whether federal judges can be allowed to commit perjury, obstruction of justice, and fraud upon the courts.

3. Whether the Constitution guarantees citizens a fair trial and an impartial judge.

4. Whether the Supreme Court will exercise its supervisory powers because the lower courts have departed so far from the accepted and usual course of proceedings.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 Petitioner states the following:

This petition is filed on behalf of an individual.

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OPINIONS BELOW

The opinion of the Eleventh Circuit Court of Appeals is provided in the Appendix to the Petition ("Pet. App.") at 4, and the order on the motion for reconsideration is at Pet. App. 6. The District Court's opinion of May 22, 2009, is provided at Pet. App. 8.

JURISDICTION

The Court of Appeals entered its judgment on September 9, 2009. A ruling on a motion for reconsideration was entered on November 20, 2009. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTES INVOLVED

This case involves 11th Circuit Local Rule 42-4, FRCP Rule 60, 28 U.S.C. § 144, 28 U.S.C. § 455, the United States Constitution and the First, Fifth, Sixth, Eighth and Fourteenth Amendments, and the Code of Judicial Conduct.

STATEMENT OF THE CASE

A. Jurisdiction Below

The United States District Court for the Northern District of Georgia had subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1331, which confers original jurisdiction for actions arising under the laws of the United States and 28 U.S.C. § 1367.

The United States Court of Appeals for the Eleventh Circuit had jurisdiction pursuant to 28 U.S.C.A.§1291 as an appeal of final decisions of the United Stated District Court for the Northern District of Georgia.

B. Factual Background

There is only one fact before this Court on this appeal:

"After review of the Appellant's motions below, the District Court's Order and Appellant's brief, we DISMISS this appeal AS FRIVOLOUS sua sponte." (Order of 11th Circuit dated September 9, 2009.) (Pet. App. 4.)

Half of the sentence is hearsay as the order was not signed by the judges, and it is impossible to believe that they properly reviewed anything.

The lone fact is that the 11th Circuit dismissed "this appeal AS FRIVOLOUS sua sponte."

The 11th Circuit actually responded with an additional one sentence response:

"Appellant's motion for reconsideration of our September 9, 2009 Order dismissing this appeal as frivolous sua sponte is DENIED."

The reasons that the Appeal was not frivolous are detailed in the Motion for Reconsideration filed with the 11th Circuit on September 15, 2009. (Pet. App. 228.)

The Petitioner was tempted to end this Petition right here....

The biggest problem with a one sentence decision – the appellate denies the appellant anything with which to work.

However, it is vitally important for this Court to know the history of the underlying lawsuit ("MIST-1").

District Court Judge Orinda D. Evans ("Judge Evans"), several attorneys, and five people lied again and again and again and cost the Petitioner, Alcatraz Media, LLC and Alcatraz Media, Inc. (jointly "Alcatraz") approximately one million dollars in legal fees and litigation expenses and much more.

Maid of the Mist Corporation and Maid of the Mist Steamboat Company Limited (jointly "Plaintiffs" or "Maid") filed suit in August 2005 against Alcatraz Media, LLC, Alcatraz Media, Inc., and William M. Windsor (jointly "Defendants").

Four managers of Maid committed hundreds of counts of perjury. These managers lied repeatedly under oath and conspired to commit fraud against the Defendants. MIST-1 began with a sworn Verified Complaint that consisted of perjured testimony by the President of Maid, Christopher Glynn ("Glynn"). The Petitioner has detailed under oath that as many as 46 of the 50 paragraphs were false or incorrect and/or not based upon the personal knowledge of Glynn as he swore.

The lies, false sworn pleadings, false pleadings, and discovery abuse continued throughout MIST-1. This deprived the Defendants of any opportunity for a fair trial. The dishonesty of Maid and Plaintiffs' attorneys was compounded by the "mistakes" of Judge Evans, who decided on day one that she was going to find in favor of Maid, withheld documents from the Defendants, violated the legal rights of The Petitioner and Alcatraz by ignoring perjury and a massive fraud upon the court, denying the most basic discovery, and acting without the impartiality required of a judge.

Maid's managers and primary attorney, Mr. Carl Hugo Anderson, lied many hundreds of times. (MIST-1 Doc. 377 – Exhibits 1-8, 10-21 lists each false statement and provides citations to the proof of

the falsities.)

Plaintiffs' attorneys have violated the State Bar of Georgia Rules of Professional Conduct and have committed many violations of their oaths.

The Plaintiffs and their attorneys used a deliberately planned unconscionable scheme to fraudulently subvert the integrity of the judicial process. Proof of the unconscionable scheme, and of its complete success to date, is conclusive in the Docket of Civil Action 1:06-CV-0714-ODE ("MIST-1").

Plaintiffs' attorneys have filed false sworn pleadings, have filed false pleadings, have filed improper pleadings, have filed allegations and other factual contentions that lack evidentiary support, have obstructed justice, have suborned perjury, and have violated numerous criminal statutes.

Plaintiffs' attorneys fabricated the claim upon which they obtained a Temporary Restraining Order, then a Preliminary Injunction, and then a Summary Judgment.

Plaintiffs' attorneys have knowingly had their client verify false pleadings. Plaintiffs' attorneys have committed perjury. Plaintiffs' attorneys have suborned perjury.

Plaintiffs' attorneys established a pattern and practice of lies, multiple false sworn statements in multiple false sworn affidavits by multiple people, false sworn testimony at the Preliminary Injunction

Hearing, in their depositions, and more. These were material false statements.

Plaintiffs' attorneys concealed documents, altered documents, withheld documents, and more as part of the scheme.

Statements were knowingly and deliberately falsified to serve the improper needs of Plaintiffs' attorneys, to inflict pain, suffering, and financial loss on the Defendants.

The many issues of professional misconduct are detailed in MIST-1 Docket #474 and Dec #25 (MIST-1 Docket #462).

All of this should subject Plaintiffs' attorneys to professional discipline for knowingly making false statements of fact; assisting a client in illegal or fraudulent conduct; engaging in conduct involving fraud, dishonesty, deceit, and misrepresentation; and engaging in conduct reflecting adversely on the attorneys' fitness to practice law.

The Petitioner filed motions for sanctions against Plaintiffs' attorneys that provide additional details of attorney misconduct. [MIST-1 Docket #363 and 364]. But Judge Evans ignored it all. She never allowed it to be discussed, and she refused repeated motions for hearings and conferences.

Judges are supposed to tell the truth at all times, but Judge Evans has made false statements routinely.

Judge Evans has violated the Petitioner's Constitutional and civil rights under color of law and has denied due process.

Judge Evans has not demonstrated the impartiality required of a judge. Judge Evans has demonstrated a personal bias in favor of the Plaintiffs and a prejudice against the Defendants.

The improper acts of Judge Evans were motivated by unknown extrajudicial factors. The record shows that Judge Evans was against the Defendants from the minute she became involved in MIST-1.

Judge Evans established a fixed view about substantive pending trial matters. Judge Evans issued a Temporary Restraining Order in March 2006 and required a bond that was less than 1.5% of the amount underestimated by the Defendants. The bond was $5,000, and the loss by the Defendants has been approximately $1,000,000.

Judge Evans spoke at the Preliminary Injunction Hearing in April 2006 with a clearly fixed view about substantive pending trial matters. Judge Evans indicated to the Petitioner that she maintained a position throughout this proceeding that the Defendants were wrong and that their case did not matter. Judge Evans called it a "simple case" in complete disregard for the facts, the law, and the counterclaim of Alcatraz.

Judge Evans treated the Petitioner and Alcatraz in a hostile manner.

Denying the Defendants' access to important records, evidence, and witnesses, as Judge Evans did, is a violation of Equal Protection.

Judge Evans made as many as 200 false statements in the Preliminary Injunction Order in May 2006 and Summary Judgment Order in August 2007. Proof of the false statements in the orders has been documented in MIST-1 Docket #362 and 377 with citations to Maid's witnesses proving that many statements are false.

These were material false statements made under the Judge's oath of office in a federal proceeding. Judge Evans knew statements that she made were false because she claimed statements were evidence before the Court, and that was clearly not true. Furthermore, Judge Evans was on notice that the Summary Judgment Order statements were false because the Petitioner informed her on February 2, 2007. [MIST-1 Docket #174, P 23: 24-25, P 24: 1-7, P 34: 4-7, P 44: 6-8.]

The Petitioner began efforts to reopen the case in April 2009. In four years, Judge Evans has never granted the Petitioner a single conference or hearing. Never.

Pervasive bias continued in 2009 as was shown on May 22, 2009 in an order from Judge Evans wherein she falsely claims "the issues of law and fact in this case ultimately were not difficult." (Pet. App. 8.) Judge Evans ignored the facts and the law. She issued an injunction to stop the Defendants

from a business that they are licensed to operate by the State of Georgia wrongly claiming the business is illegal.

Judge Evans ignored everything in MIST-1 from May until December 22, 2009 when she issued an order denying all pending motions en masse and enjoining the Petitioner essentially from filing anything anywhere. Several appeals are pending at the Eleventh Circuit, and several petitions are yet to be submitted to this Court.

The Petitioner and Alcatraz are entitled under the Fifth Amendment to the "absolute right" to an impartial tribunal. The Fifth Amendment is supposed to act as a limitation upon the exercise of judicial power – to wit, justices may not sit as adjudicators in cases in which they have an interest. But by adjudicating pending motions and a Complaint of Professional Misconduct in MIST-1, Judge Evans violated the Petitioner's right to an impartial tribunal.

Judge Evans ignored the Petitioner's claims of hundreds of counts of perjury, Rule 11 violations, and subornation of perjury by the Plaintiffs and their attorneys. Judge Evans issued orders and the summary judgment based upon testimony that she was told was perjured. Judge Evans refused to give proper consideration to the merits of the Petitioner's sworn statements based upon his personal knowledge and made under penalty of perjury before a notary in MIST-1.

Maid has not attempted to dispute the perjury with a single solitary affidavit. This is because the Plaintiffs cannot dispute the uncontroverted facts.

Judge Evans has committed obstruction of justice. By withholding material evidence that should have been provided to the Defendants. Judge Evans received two contracts for an in camera inspection in February 2007. Judge Evans claimed the contracts were not relevant to the case, but that was false.

The Defendants finally obtained the contracts through a FOIL request in 2009, so the Petitioner knows that the contracts contained extremely important information. The Petitioner has reason to believe that Maid filed bogus documents with Judge Evans. These documents are referenced in MIST-1 Docket #168, and the production requirement is noted in MIST-1 Docket # 174 - Hearing of February 2, 2007, P 61-62. (See First Declaration of William M. Windsor (Dec #1, ¶¶ 15-32) and Exhibits 1 and 2 thereto. [MIST-1 Docket #361].) Judge Evans refused to produce these documents from a subpoena, and she denied a motion to lift the seal with no justification whatsoever. These documents will prove that MIST-1 should be reopened. These documents will prove fraud. The Petitioner has no way to get the documents because Judge Evans is concealing them.

The Defendants were denied the most basic discovery -- never even given the names and contact information for employee witnesses. Judge Evans denied the ability of the Defendants to take

deposition testimony of any of the people directly involved with customers or any customers. Judge Evans denied the Defendants the time needed to obtain the depositions of Canadian employees of Maid who were important to Defendants' case.

Judge Evans repeatedly denied discovery requests that were essential to Defendants' defense and in support of Defendants' case. Discovery Abuse is detailed in Exhibit 16 to the Second Declaration of William M. Windsor ("Dec #2") [MIST-1 Docket #361]. Judge Evans denied Windsor, a pro se party, the ability to conduct a 30(b)(6) examination of Maid Corporation. [MIST-1 Docket # 174, P59: 18-21.]

It is hard to imagine that Judge Evans is incompetent as the Petitioner believes her actions in this case may indicate. The Petitioner does not know if anyone else is responsible in part for that dishonesty, but he feels the appropriate authorities should investigate. At this point, the Petitioner is left with the feeling that it is likely that the judge was paid off by someone to rule as she did. There is no other "logical" explanation for her actions.

Plaintiffs' attorneys were either the luckiest attorneys in the world to find such a willing accomplice in Judge Evans...or they had reason to believe that Judge Evans would participate in their scheme. Judge Evans acted as if she was on their payroll.

Judge Evans routinely ignored the facts and the law and even invented her own facts.

Judge Evans committed many violations of the Code of Judicial Conduct and the State Bar of Georgia Code of Professional Conduct.

Judge Evans made rulings in MIST-1 that are contrary to the law. She issued a preliminary injunction based upon an argument presented after the preliminary injunction was long over. She issued a preliminary injunction claiming tortious interference based on approximately $100 in damages that the Defendants proved were bogus with sworn affidavits from the customers involved. She denied the Defendants any ability to obtain the names of witnesses that they needed to depose. She granted a summary judgment for Maid on the key issue in the case – an oral agreement for six months in 2005 -- based upon the following: Maid testified that its president was not aware of an agreement with Alcatraz. There was no other testimony from Maid other than this one statement in the Verified Complaint! Alcatraz provided a Verified Answer, multiple sworn affidavits, and extensive deposition testimony detailing the exact terms of the oral agreement from the people who made the oral agreement with Maid. This clearly created a fact issue, but Judge Evans invented facts that weren't true and weren't in the record and claimed her facts trumped the Defendants' sworn testimony. As there was a contract, there was no tortious interference, and the Defendants should have won the case.

Detailed background facts regarding the professional misconduct of Judge Evans are provided in Dec #23 -- MIST-1 Docket #406. Dec #23 details what Judge Evans did throughout this case. Other

violations are detailed in Dec #25 (MIST-1 Docket #462).

The various actions of the Plaintiffs, their attorneys, and Judge Evans constitute fraud upon the courts.

The Petitioner naively felt like he had a chance when he was forced to appeal to the Eleventh Circuit. Of course the judges of the Eleventh Circuit have all been friends with Judge Evans during her 30 years as a federal judge. The Petitioner believes that the judges of the Eleventh Circuit have issued these one sentence decisions for the purpose of covering up for their friend, Judge Evans.

The questions ignored by the Eleventh Circuit were:

Whether the District Court erred by claiming there was not any evidence that Maid acted in bad faith in the course of this litigation when the record contains a massive amount of evidence from the Petitioner, and it has not been disputed by the Plaintiffs.

Whether the District Court erred because there was no factual support for the Court's positions on the Order (Pet. App. 8).

Whether the District Court erred in denying Rule 60(b) Motion due to improper interpretation of the law.

Whether the District Court erred by claiming Windsor did not have valid arguments under Rule 60(b).

Whether the District Court erred by failing to recuse herself and using improper factors in considering the Motion to Recuse.

Whether the District Court erred by failing to consider Windsor's Constitutional justification for recusal.

Whether the District Court erred by failing to address Windsor's Motion to Reopen under the Court's Inherent Powers.

Whether the District Court erred by claiming that Windsor's Rule 11 Motions for Sanctions were entirely lacking in merit when the record contains a massive amount of evidence from Windsor, and it has not been disputed by Maid.

Whether the District Court erred by failing to give Windsor his legal right to have his Reply to Responses considered.

Whether the District Court erred by failing to consider that this case casts doubt on the integrity of the judicial process.

Whether the extraordinary circumstances require that this Court exercise its review and supervisory powers to review the entire case.

The legal system has been structured so that grave miscarriages of justice, such as the one in this case, should not happen.

Oaths theoretically require honesty. Every witness, attorney, and judge swears an oath to the truth. Attorneys and judges swear to abide by codes of conduct. But when the witnesses for Maid lied and committed perjury hundreds of times; when their attorneys suborned that perjury; when Plaintiffs' attorneys violated their oaths and the law for the purpose of committing fraud upon the courts; when Judge Evans actively participated in supporting the wrongdoing; and when all the lies deceived the U.S.C.A. on appeal, the most basic rights of Windsor were violated.

The system theoretically provides safeguards and checks and balances. FRCP Rules 11, 34, and 37 and Local Rule 83.1C provide means to call party and attorney dishonesty to the attention of the judge. Rule 60 provides the ability for grave miscarriages of justice to be corrected by reopening cases and setting aside wrongful judgments. 28 U.S.C. 144 and 455 provide the means to seek recusal of a judge. But in this case, Judge Evans ignored the pleas under Rule 11, 34, and 37 claiming there was no proof despite mountains of it. In this case, Judge Evans improperly denied the Motion to Reopen. In this case, Judge Evans refused to be recused despite pervasive bias. In this case, Judge Evans ignored the reports of massive perjury and refused to even consider that Maid and Plaintiffs' attorneys should be sanctioned. There is no factual or legal basis for the actions of Judge Evans.

The worst of hardships have resulted from the dishonesty in this case. The Defendants have lost approximately $1,000,000.00, have been saddled with an injunction that is a violation of Georgia law, have been defamed, and have lost years of man hours fighting the injustice. Now others are unfairly using the erroneous decision in this case in litigation against Alcatraz in efforts to "void" O.C.G.A.43-4B. To Alcatraz, the financial cost represents years of pre-tax profits. To the Petitioner, the financial cost represents money that this retiree expected to live on in retirement.

As hard as it may be for fellow federal judges to accept that a peer has committed serious judicial misconduct, the Petitioner prays that personal feelings and doubt can be put aside to review the evidence because there has been a grave miscarriage of justice.

In 2009, the Petitioner wrote to the Presiding judges of the Northern District of Georgia and the Eleventh Circuit asking for a conference of some type, and he was ignored. Windsor filed a Motion for Judicial Intervention asking these judges, the Supreme Court, and the House and Senate Judiciary Committees to do something, but only the Supreme Court replied to say that they were unable to consider a letter and motion in a district court.

The Petitioner sent detailed information to the FBI, the District Attorney, and the United States Attorney. The District Attorney referred The Petitioner to the FBI. The FBI said $1,000,000 was

not a big enough deal for them to get involved. The United States Attorney simply ignored it.

The Petitioner has now written to every member of the House and Senate Judiciary Committees, and only Senator Arlen Specter has replied in January 2010 by referring the letter to the two senators from Georgia.

After learning that there is no civil lawsuit allowed for perjury, and after none of the authorities responded, the Petitioner filed a lawsuit against Judge Evans, the Plaintiffs, and their attorneys under Rule 60(d) for fraud upon the court and RICO. In the Verified Action in N. D. Ga. 1:09-CV-02027-WSD, the Petitioner details thousands of false statements, identifies hundreds of violations of criminal statutes (predicate acts for RICO), and references all of the proof about which the Petitioner has sworn under penalty of perjury before a notary.

The Petitioner had high hopes that another judge would finally step in and end this nightmare. Instead, Judge Evans' next-door neighbor was assigned the case. Judge William S. Duffey ("Judge Duffey") immediately denied all of the Petitioner's motions and requests based on no evidence other than the Petitioners; he ordered the Defendants to submit Motions to Dismiss; he denied the Petitioner the ability to submit any motions without his prior approval, and more. Judge Duffey was previously acquainted with facts in MIST-1 because he called the Petitioner "scurrilous and irresponsible" for taking legal action against his friend, Judge Evans. So much for impartial judges and fair trials!

And now, the Eleventh Circuit has joined the act.

The Petitioner asked the following questions of the Eleventh Circuit in his appeal, all of which are facts:

1. Should a court allow perjury by a party? How much perjury does it take to become objectionable? What about 450 counts of perjury?

2. Should a court allow attorneys to commit perjury by submitting false statements of fact to the court? How many false statements from attorneys does it take to become objectionable? What about 350 counts of perjury? [

3. Should a court allow attorneys to suborn perjury? How many instances of suborning perjury from an attorney does it take to become objectionable? What about hundreds?

4. Should a court allow attorneys to commit violations of the State Bar of Georgia Code of Professional Conduct? How many violations from an attorney does it take to become objectionable? What about hundreds?

5. Should a court allow attorneys to routinely violate the Federal Rules of Civil Procedure ("FRCP")? How many violations from an attorney does it take to become objectionable? What about dozens?

6. Should a court allow attorneys to routinely violate the laws of the state? How many laws must be violated by an attorney to become objectionable? What about nine laws violated repeatedly over three years?

7. Should a court allow attorneys to routinely violate the laws of the USA? How many laws must be violated by an attorney to become objectionable? What about eight laws violated repeatedly over three years?

8. Should the judicial system allow judges to commit perjury and obstruction of justice? How much perjury by a judge does it take to become objectionable? What about 250 counts of perjury?

9. Should a judge be allowed to completely and totally ignore the complaints of one party that the other party and their attorneys have committed massive misconduct as described above?

10. What should be done to attorneys and judges who commit such incredible misconduct? Shouldn't these attorneys be disbarred, and shouldn't this judge be impeached?

11. How do you compensate a litigant who had over $1,000,000 stolen from him in the guise of a lawsuit in which this professional misconduct completely and totally perverted the legal system?

12. How in the world can a judge even pretend to stand for truth and justice and decency if he/she allows things like this to happen?

The Petitioner has the evidence if someone will just care.

This is like a horrible nightmare that has consumed four years of the Petitioner's life and a million dollars

The Petitioner's wife feels that the fine people at the Supreme Court will read some of this and think that everyone feels they should have won; this cannot be true; and this guy is crazy. Please do not think this.

This is a case of legal and judicial abuse on steroids. This is a case that will prove that there is no such thing as justice in America if this Court declines to act.

C. Personal Facts – A Message from Petitioner William M. Windsor

I imagine most pro se parties are viewed with skepticism. I obtained a reasonably good college education and was accepted to law school, though I chose not to attend. (Supreme Court Justice Thomas C. Clark wrote a letter of recommendation for me.) I have a high IQ and qualified for Mensa. I estimate that I am probably as intelligent as the average to slightly below average attorney. However, when my 40 years of entrepreneurial business experience is factored in, I would rank much higher. So, when I research the law and write my motions and affidavits, there is plenty of intelligence and

experience behind what I am doing. I refuse to accept the lies, distortions, and dishonesty of any attorney.

I am 61 years old. I have been married for 38 years. I am the father of two and the grandfather of two. I worked throughout college and paid most of my school expenses working as a disc jockey and TV announcer before starting the first of my businesses as a junior in college in 1969. I earned a BBA degree in marketing from Texas Tech University where I was named to Who's Who, served as a Student Senator for two years, was the president of various student organizations, was one of three judges on the Faculty-Student Discipline Board, won a number of awards as a speaker and debater, and was involved in a wide variety of activities while working full-time, serving in the Army Reserve, and managing to make decent grades. I joined the Army Reserve during the Viet Nam War and spent six years in the Army Reserve. I was the "company clerk" working with commanding generals for most of those years.

I have been called "the father of the T-shirt industry" since I started the trade magazine and trade shows for the imprinted T-shirt business in 1977 before anyone realized it was an industry. As a magazine publisher and trade show producer for most of my career, I have written hundreds of magazine articles, manuals, and books, and I have spoken at trade shows and conferences throughout the US and in Europe and Asia.

I have employed thousands of people during my career during which I have owned or served as

President or CEO of over 50 companies. I served as President of a $225 million annual revenue company for Goldman Sachs and CEO of a large company for Bain Capital, another mega-billion dollar financial group.

I have never been arrested or accused of a crime, haven't been guilty of a traffic violation or parking violation in about 10 years, and didn't have a traffic accident in my first 42 years of driving. I have never smoked marijuana or used any drug of any type. I very rarely drink alcoholic beverages. No one in our family (wife, children or grandchildren) has ever been arrested or accused of a crime. None of them did as well as I have staying out of traffic accidents, but they are all truly wonderful people who are a benefit to society.

The lawsuit I have filed against Judge Evans, Maid, and Maid's Attorneys (Civil Action 1:09-CV-02027-WSD) is the first that I ever filed pro se. I have had an attorney file only one lawsuit in my behalf in the last 17 years in the U.S. (and that was to evict a tenant who didn't pay the rent). I always show up for jury duty. We pay our bills, and we have an excellent credit record.

My wife and I love animals, have a cat that is like a third child, and we regularly donate to cat rescue organizations. I babysit for our granddaughters as often as possible and drive the first-grader's carpool twice a week. My wife and I attend Peachtree Presbyterian Church.

My mother died of breast cancer 31 years ago, and our family has supported breast cancer as our primary cause. My wife was friends with Susan G. Komen's sister, Nancy, and my wife was involved in the early days of establishing, supporting, and helping the Susan G. Komen Foundation. When my father became ill in January 2008, I stayed with him day and night for two months in the hospital and in his final days at a hospice. We never left him alone because his mother died when he was two, and his father was an entertainer who left him to literally live on his own throughout his pre-teen and teen years. I am the executor of his modest "estate."

I loan money to people in need and will do just about anything to help a friend. If you ask my friends, former employees, and associates, I believe they will say that I am extremely reliable and have one of the strongest senses of responsibility that you will find. I believe they will also say that I have an extreme sense of right and wrong. I go by the rules, and I believe everyone else should.

I have never lied in a legal proceeding, and I would never lie in a legal proceeding. My parents taught me to tell the truth, and I have always taught our children and my employees to tell the truth.

I provide this background so you will understand that you are not reading the words of a criminal, a derelict, a crazy person, or someone without any credibility. I am a decent, honest person.

Based upon the thousands of hours I have spent on this matter, I believe with every bone in my body that the Plaintiffs will be found extremely guilty if a judge ever listens to what happened and reviews the evidence.

I am quite sure a statement such as the one above is highly unusual, but it is important to me that you hear me say that this is all real.

Respectfully submitted,

/s
William M. Windsor
Pro Se

REASONS FOR GRANTING THE PETITION

I. THIS CASE PRESENTS AN ISSUE OF VITAL IMPORTANCE TO ALL CITIZENS.

The citizens of the United States expect a fair trial. They expect honesty and fairness from judges. They believe courts issue carefully-considered opinions that explain why their decisions are justified. Citizens do not expect that one party can lie continually in court and get away with it. Citizens do not expect that judges may violate criminal statutes as part of a scheme to cheat a litigant.

If what has happened in the underlying case is allowed without judicial intervention, the citizens of the United States should amend the Pledge of Allegiance to delete "justice for all."

The Constitution guarantees citizens a fair and impartial judge. The Eleventh Circuit has not adequately protected this guarantee. (***Liteky v U.S.***, 510 US 540 (1994).

The citizens of the United States will be shocked and appalled when they learn about the Petitioner's experience.

II. SUA SPONTE DISMISSALS WITHOUT AN EXPLANATION DENY DUE PROCESS.

"...we DISMISS this appeal AS FRIVOLOUS sua sponte" is not fair, and it denies due process.

This Court expressed on October 20, 2009 that circuit courts err in disposing of claims without explanation of any sort." (***Corcoran v. Levenhagen***, 558 U.S. ___ (2009), (08-10495).)

The Eleventh Circuit provided NO explanation of any type. If the 11th Circuit has an explanation for how the appeal could be considered frivolous, the Petitioner should have been afforded the due process right to see what they had to say and respond. The Eleventh Circuit denied the Petitioner a complete record of the case, and the Petitioner was afforded no procedural safeguards.

Sua sponte dismissals are not favored. They bare unfair to litigants. (***Franklin v. State of Oregon, State Welfare Division***, 662 F.2d 1337, 1342 (9th Cir. 1981); ***Lewis v. State of New York***, 547 F.2d 4 (2d Cir. 1976).)

Sua sponte dismissals deny the Petitioner the opportunity to make legal arguments against the dismissal. The prejudice is particularly acute with respect to pro se plaintiffs ... who are generally unskilled in the art of pleading. (***Tingler v. Marshall***, 716 F.2d 1109 (6th Cir. 09/15/1983).)

At a basic level, procedural due process is essentially based on the concept of "fundamental fairness." In 1934, this Court held that due process is violated "if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." (***Snyder v. Massachusetts***, 291 U.S. 97, 105 (1934).) (See ***Goldberg v. Kelly***, 397 U.S. 254,

267 (1970); *Palko v. Connecticut*, 302 U.S. 319 (1937).)

III. THIS CASE BEGS FOR THIS COURT TO EXERCISE ITS SUPERVISORY POWERS BECAUSE THE LOWER COURTS HAVE SO FAR DEPARTED FROM AN ACCEPTABLE COURSE OF PROCEEDINGS.

There likely has never been a case like this that was absolutely dominated by dishonest acts by the Plaintiffs, their attorneys, and the judge. Cases such as this never reach the appellate courts because attorneys will not represent a party who is taking on a federal judge. The Petitioner and Alcatraz know; every attorney he contacted refused to become involved due to fear of reprisals from the federal judges in Atlanta. Alcatraz has been unable to join in these efforts because they cannot find an attorney who will risk his or her career.

The Petitioner has reviewed a number of Supreme Court cases on the use of supervisory powers. Surely this is a case where the most basic of rights has been violated and must be addressed.

> "The purposes underlying use of the supervisory powers are threefold: to implement a remedy for violation of recognized rights, ***McNabb v. United States***, 318 U.S. 332, at 340 (1943); ***Rea v. United States***, 350 U.S. 214, 217 (1956); to preserve judicial integrity by ensuring that a conviction rests on appropriate considerations validly

before the jury, ***McNabb***, supra, at 345; ***Elkins v. United States***,364 U.S. 206, 222 (1960); and finally, as a remedy designed to deter illegal conduct, ***United States v. Payner***, 447 U.S. 727, 735-736, n. 8 (1980)."

This power has been applied not only to improve the truth-finding process of the trial, see, e.g., ***Mesarosh v. United States***, 352 U.S. 1, 9-14 (1956), but also to prevent parties from reaping benefit or incurring harm from violations of substantive or procedural rules (imposed by the Constitution or laws) governing matters apart from the trial itself, see, e.g., ***Weeks v. United States***, 232 U.S. 383 (1914). (***United States v. Williams***, 504 U. S. 36, 112 S. Ct. 1735 (U.S. 05/04/1992).)

Indeed, this Court has acknowledged the power of the courts of appeals to mandate "procedures deemed desirable from the viewpoint of sound judicial practice although in nowise commanded by statute or by the Constitution." (***Cupp v. Naughten***, 414 U.S. 141, 146 (1973); see also ***Barker v. Wingo***, 407 U.S. 514, 530, n. 29 (1972).)

When the proper administration of justice is at stake, use of supervisory powers is most important.

"The authority which Congress has granted this Court to review judgments of the courts of appeals undoubtedly vests us not only with the authority to correct errors of substantive

law, but to prescribe the method by which those courts go about deciding the cases before them." (*Leaman Brothers v. Schein*, 416 U. S. 386, 393 (1974) (Rehnquist, J., concurring); *Nguyen v. United States*, 123 S.Ct. 2130, 539 U.S. 69, 156 L.Ed.2d 64 (U.S. 06/09/2003).)

Extraordinary circumstances require that wrongs are righted and that this Court exercise supervisory power. This is one of those cases. The Petitioner has been unable to find any cases that have dishonesty and fraud upon the court of anywhere near this magnitude.

IV. THE ACTIONS OF THE LOWER COURTS VIOLATE BASIC CONSTITUTIONAL RIGHTS.

This Court cannot allow what happened in the underlying case. The rights are as basic as they come.

The Petitioner submits that the lower courts have violated his civil and Constitutional rights. The courts' cursory treatment of the Petitioner does not comport with fair procedure and lacks the equality that is required by the Constitution and its amendments. Axe murderers, child molesters, and rapists are given better treatment than the Petitioner. (*Younger v. Gilmore*, 404 U.S. 15 (1971); *Cruz v. Hauck*, 404 U.S. 59 (1971); *Chaffin v. Stynchcombe*, 412 U.S. 17, 34 n. 22 (1973).) Even the student who appealed his $100 traffic ticket to this Court received the courtesy of proper written

decisions. (*Clark v. Florida*, 475 U.S. 1134, 1136 (1986).)

There is no evidence that the 11th Circuit conducted any review of this appeal whatsoever. No Court should be allowed to hide behind a one sentence order claiming an appeal is frivolous without providing a detailed written explanation. Such an unfair order denies the Petitioner the right to a fair trial. It denies the right to a fair appeal. It denies due process.

> As said by the Supreme Court in *Berger v. United States*, supra,"* * * the tribunals of the county shall not only be impartial in the controversies submitted to them but shall give assurance that they are impartial, free, to use the words of the section, from any `bias or prejudice' that might disturb the normal course of impartial judgment." In *In re Murchison*, supra, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942, the Supreme Court said "Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness."

One of the fundamental rights of a litigant under our judicial system is that he is entitled to a fair trial in a fair tribunal, and that fairness requires an absence of actual bias or prejudice in the trial of the case. If this basic principle is violated, the judgment must be reversed. (*In re Murchison*, supra; *Berger v. United States*, supra; *Knapp v. Kinsey*, 232 F.2d 458, (6th Cir. 1956).)

"Courts as well as citizens are not free 'to ignore all the procedures of the law....'. The 'constitutional freedom' of which the Court speaks can be won only if judges honor the Constitution." (***Walker v. City Of Birmingham***, 388 U.S. 307, 338 (1967) (Mr. Justice Douglas, dissenting).) "Due process is perhaps the most majestic concept in our whole, constitutional system." (***Joint Anti-Fascist Committee v. McGrath***, 341 U.S. 123, 174 (1951) (Justice Frankfurter, concurring).) It is ingrained in our national traditions, and is designed to maintain them. In a variety of situations, the Court has enforced this requirement by checking attempts of executives, legislatures, and lower courts to disregard the deep-rooted demands of fair play enshrined in the Constitution." id. 161. "Fairness of procedure is "due process in the primary sense." (***Brinkerhoff-Faris Co. v. Hill,*** 281 U. S. 673, 281 U. S. 681.) In a long line of cases, the United States Supreme Court has held that impingements of constitutional rights are, without variation, subject to the strictures of "due process" or notice and opportunity to be heard prior to their enactments. (***Mullane v. Central Hanover Bank & Trust Co.***, 339 U.S. 306, 313 (1950); ***Goldberg v. Kelly***, ***Fuentes v. Shevin***, 407 U.S. 67 (1972); ***Owen v. City Of Independence***, 445 U.S. 622 (1980).)

The Eleventh Circuit decision is inconsistent with the fundamental principal of due process and violated the Petitioner's Constitutional rights.

V. THE LOWER COURTS DECIDED IMPORTANT QUESTIONS OF FEDERAL

LAW IN A WAY THAT CONFLICTS WITH SUPREME COURT DECISIONS.

The Supreme Court tried to make it clear in 1994 that the source of impartiality by a judge need not necessarily stem from an extrajudicial source:

> "It is wrong in theory...to suggest, as many opinions have, that 'extrajudicial source' is the only basis for establishing disqualifying bias or prejudice. It is the only common basis, but not the exclusive one, since it is not the exclusive reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable predisposition can also deserve to be characterized as 'bias' or 'prejudice' because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. (***Liteky v US***, supra.)

> "The fact that an opinion held by a judge derives from a source outside judicial proceedings is not a necessary condition for 'bias or prejudice' recusal...." (***Liteky***, at 554.) Indeed, ***Liteky*** noted approvingly the Court's earlier ruling in ***Berger v. United States***, 295 U.S. 78 (1935), requiring recusal on the basis of judicial remarks made in a prior proceeding. (***Liteky v. United States***, supra.)

Despite the Supreme Court ruling in ***Liteky*** in 1994, many federal courts continue to require extrajudicial bias.

District Courts within the 2nd, 3rd, 4th, 5th, 6th, 9th, and 11th Circuits continue to erroneously cite ***United States v. Grinnell Corp.***, 384 U.S. 563, 583, 86 S.Ct. 1698, 16 L.Ed.2d 778 (1966) requiring extrajudicial bias. (Just a few of these cases are ***United States v. Carlton***, No. 07-2344-cr (2d Cir. 07/16/2008); ***Navastar Financial Corp. v. Pinnacle Truck Sales & Corp.***, 4:03-CV-2089. (M.D.Pa. 05/20/2005); ***Assa'ad-Faltas v. President of the University of South Carolina***, No. 07-1949 (4th Cir. 08/21/2008); ***United States v. Gonzalez***, No. 08-20333 (5th Cir. 09/17/2009); ***Creusere v. Weaver***, No. 07-5859 (6th Cir. 01/26/2009); ***United States v. Weaver***, 97 F.3d 1463 (9th Cir. 09/13/1996); ***Dinkins v. Leavitt***, No. 08-10911 (11th Cir. 11/05/2008); ***Gilbert v. United States Dep't of Justice***, No. 07-10488 (11th Cir. 10/18/2007).)

Each circuit of the federal system has its own take on what proper disqualification standards are. For some sectors, the *appearance* of impartiality is as important as *de facto* impartiality. For other areas, intrajudicial conflicts are considered irrelevant, even if they could be perceived by the public as flagrantly prejudicial.

No branch of American government relies more on public reputation for legitimacy than the courts. Since a judge's fate usually resides in his or her own hands, the need for a strong statement from this Court is especially important. Few human beings would constrain themselves from the acquisition of desires without laws and rules of conduct. Unfortunately, our legal arbiters are not immune from this characteristic.

> "While the mere presence of an extrajudicial source does not automatically establish bias, neither does the absence of an extrajudicial source necessarily preclude bias (although absent some extrajudicial bias it is exceedingly difficult to establish bias justifying recusal). ***Liteky***, 114 S. Ct. at 1157.

This Court can accomplish a great deal by at least making it clear to the lower courts that extrajudicial bias is not a requirement for recusal.

VI. THE LOWER COURTS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW IN A WAY THAT CONFLICTS WITH ALL OTHER CIRCUITS AND SHOULD BE SETTLED BY THE SUPREME COURT.

The lower courts disallowed the Petitioner's pro se certificate of good faith for 28 U.S.C. § 144.

Case law in other districts indicates that a pro se litigant who has no "counsel of record" may provide his own certificate of good faith. (***In re Beecher***, 50 F. Supp. 530, 531 (E.D. Wash. 1943); See also ***Kersh v. Borden Chem.***, 689 F. Supp. 1457, 1459-1460 (E.D. Mich. 1988).) The 2008 decision in ***Stine v. United States***, No. V-06-21 (S.D.Tex. 11/07/2008) at ¶26 and 33 was:

> "...both the weight of authority, including reasonable inference from a Fifth Circuit statement, and the most logical reasoning

are on the side of holding that a pro se litigant must sign a certificate when making a section 144 motion."

Stine also states:

"The Fifth Circuit has intimated, without expressly so stating, that even a pro se litigant must file such a certificate, signed by himself, indicating that his motion and affidavit are filed in good faith. See ***Parker v. Bd. of Supervisors Univ. of Louisiana-Lafayette***, 270 Fed. Appx. 314, 316 (5th Cir. 2008). Other courts have joined in allowing pro se litigants to file this certificate. See ***United States v. Collins***, 203 Fed. Appx. 712, 714 (7th Cir. 2006); ***Everson v. Liberty Mut. Assurance Co.***, Civ. No. 1:05-2459, 2008 WL 1766956 (N.D. Ga. Apr. 14, 2008); ***Apel v. Davis***, Civ. No. 3:07-475, 2007 WL 4531521 (N.D. Fla. Dec. 14, 2007); ***United States v. Goldston***, Civ. No. 06-2153, 2007 WL 3090775 (D. Colo. Oct. 19, 2007); ***United States v. Pungitore***, Civ. No. 97-2972, 2003 WL 22657087 (E.D. Pa. Oct. 24, 2003); ***Heimbecker v. 555 Assocs.***, Civ. No. 01-6140, 2003 WL 21652182 (E.D. Pa. Mar. 26, 2003); ***Vassilos v. Petersen***, Civ. No. 92-6456, 1992 WL 345044 (N.D. Ill. Nov. 12, 1992); ***United States v. Jones***, Crim. No. 89-61E, 1989 WL 58544 (W.D.N.Y. June 2, 1989); ***Kersh v. Borden Chemical***, 689 F. Supp. 1457 (E.D. Mich. 1988)... ***In re: Request for Recusal of District Judge***, Misc. No. 3-94-30, 1994 WL 1631038 (S.D. Ohio Oct. 12, 1994); ***Trinsey v.***

K. Hovanian at Upper Merion, Inc., Civ. No. 93-1695, 1993 WL 313510 (E.D. Pa. July 28, 1993)."

It cannot be Constitutional to deny a pro se party the ability to seek recusal under 28 U.S.C. § 144. Attorneys cannot risk taking action against judges, so pro se litigants lose this right which is preferable to 28 U.S.C. § 455 because 144 is supposed to take the decision-making out of the hands of the accused judge.

VII. THE PETITION TO THE ELEVENTH CIRCUIT WAS NOT FRIVOLOUS.

11th Circuit Rule 27-4 defines a frivolous motion:

> "A motion is frivolous if: (a) it is without legal merit and cannot be supported by a reasonable argument for an extension, modification, or reversal of existing law, or the establishment of new law; or (b) it contains assertions of material facts that are false or unsupported by the record; or (c) it is presented for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

The 11th Circuit has no factual justification for claiming improper purpose (c. above), so this cannot be claimed as justification for the sua sponte decision.

The 11th Circuit has no factual justification for claiming facts were not supported (b. above), so this cannot be claim as the justification for the sua sponte decision.

This means the only possible basis for the sua sponte decision is lack of legal merit (a. above). The Petitioner cited 52 cases, three treatises, one article and six amendments to the Constitution in his Appeal. An additional 31 cases were cited in the motion for reconsideration. The law was studied very carefully.

To be deemed frivolous, a litigant's arguments must truly strike beyond the pale [outside the bounds of morality, good behavior or judgment in civilized company]. (***Washington v. Alaimo,*** 934 F. Supp. 1395 (S.D. Ga. 1996).)

The Petitioner searched "frivolous motion" and "frivolous appeal" using VersusLaw.com. The Petitioner's appeal does not meet any of the criteria that the 11th Circuit expressed in 58 cases that contained those terms.

It is not frivolous for the Petitioner to claim that the impartiality of Judge Evans must be questioned. The standard for review in recusal is not what Judge Evans thinks; it is what reasonable people think. The average reasonable person, knowing all the facts, would easily conclude that Judge Evans' impartiality could be questioned.

It is not frivolous for the Petitioner to claim that the District Court erred by claiming there was

not any evidence that the Plaintiffs acted in bad faith in the course of the litigation and failed to have factual support for its rulings. It is not frivolous for the Petitioner to claim that 1,905 pages of sworn testimony by Windsor, 810 exhibits, and thousands of citations to Plaintiffs' sworn testimony and other evidence showed bad faith by the Plaintiffs. Not a single statement was controverted by the Plaintiffs!

It is not frivolous for the Petitioner to claim the District Court erred in denying Rule 60(b) motion due to an improper interpretation of the law.

It is not frivolous for the Petitioner to claim that a Rule 60(b) motion for relief from judgment is improper because "such an interpretation would inappropriately undermine the finality of judgments." (***Standard Oil Co. California v. United States***, 97 S. Ct. 31, 429 U.S. 17 (U.S. 10/18/1976).)

It is not frivolous for the Petitioner to claim that an order titled "Final Order and Judgment" should be interpreted to be a "Final Order" and/or a "Final Judgment." (***Bradford v. Unum,*** D.C. Doc.No. 03-00086-CV-OC-10GRJ, at 4, Appeal from the U.S. District Court for the Middle District of Florida (11th Cir. May 14, 2007); ***Pitney Bowes, Inc. v. Mestre***, 701 F.2d 1365, (11th Cir. 1983); ***Torres v. Chater,*** 125 F.3d 166, 168 (3d Cir. 1997.).) It is not frivolous for the Petitioner to claim that his Rule 60(b) motion was timely when the statute provides that it was absolutely timely and appropriate. The motion was filed just four months after the Final Order and Judgment.

It is not frivolous for the Petitioner to claim that he had valid arguments under Rule 60(b). The Petitioner addressed each of the six sections of Rule 60(b) with facts and case law after reviewing literally hundreds of Rule 60(b) cases. The Petitioner made similar arguments that many others have successfully made.

It is not frivolous for the Petitioner to claim under Rule 60(b)(4) that Judge Evans made an error of law because licensing by the State of Georgia pursuant to O.C.G.A. 43-4B that legalizes ticket sales and the First Sale Doctrine make the injunction void as a matter of law and no longer prospectively equitable. (***Wexler v. Lepore***, 385 F.3d 1336, 1338 (11th Cir. 2004); ***Rufo v. Inmates of Suffolk County Jail***, 502 U. S. 367, 384 (1992); ***Citizens of Humanity, LLC vs. Costco Wholesale Corporation*** in the Court of Appeals of the State of California Second Appellate District Division Three No. B204117 (2/11/2009).)

It is not frivolous for the Petitioner to claim that newly discovered evidence is valid under Rule 60(b)(2). Windsor discovered new evidence, and the importance of that evidence was not controverted.

It is not frivolous for the Petitioner to claim that Judge Evans failed to rule on the legal sufficiency of his affidavit and failed to assume all factual allegations to be true as required by 28 U.S.C. 144. The Order of May 22, 2009 (Pet. App. 8) proves that Judge Evans failed to do this. By law, Judge Evans was wrong. (***Wolfson v. Palmieri,*** 396

F.2d 121, (2d Cir. 1968); ***Berger v. United States,*** supra.)

It is not frivolous for the Petitioner to claim that he was denied the basic legal rights that he is supposedly guaranteed by the law of the land. (***Burke v. Smith,*** 252 F.3d 1260 (11th Cir. 2001); ***Adickes v. S.H. Kress & Co.*** 90 S.Ct at 1609).)

It is not frivolous for the Petitioner to claim that case law provides that making claims under Rule 60(b)(1)-(5) does not preclude a claim under Rule 60(b)(6). There is extensive case law showing that multiple sections including 60(b)(6) have been considered without claiming that 60(b)(6) should be precluded. (***Pioneer Invest. Servs. Co. v. Brunswick Assoc. Ltd. Partnership,*** 507 U.S. 380 (1993); ***Liljeberg v. Health Servs.***, 486 U.S. 847, 108 S.Ct. 2194, 100 L.Ed.2d 855 (1988); ***Klapprott v. United States,*** 335 U.S. 601, 615, 69 S.Ct. 384, 390 (1949).)

It is not frivolous for the Petitioner to claim that fraud upon the court is appropriate under Rule 60(b)(6). (See ***United States v. Throckmorton***, 98 U.S. 61, 65-66, 25 L.Ed. 93 (1878); ***Wilkin v. Sunbeam,*** 466 F.2d 714, 717 (10th Cir.1972).)

It is not frivolous for the Petitioner to claim that the uncontroverted evidence of massive wrongdoing by the Plaintiffs, their attorneys, and Judge Evans should qualify as extraordinary circumstances under Rule 60(b)(6). (***Wilkin v. Sunbeam,*** 466 F.2d 714, 717 (10th Cir.1972); ***Klaprott v. United States***, 335 U.S. 601, 615, 69 S.Ct. 384, 390 (1949); ***Crapp v. City of Miami Beach,*** 242

F.3d 1017, 1020 (11th Cir. 2001); ***Liljeberg v. Health Services***, 486 U.S. 847,
108 S.Ct. 2194, 100 L.Ed.2d 855 (1988).)

It is not frivolous for the Petitioner to claim that the cumulative effect of facts considered together provide a basis for recusal as this Court has ruled. (See ***In re United States of America***, 441 F.3d 44 at 68 (2006); ***United States v. Mavroules***, 798 F. Supp 61, 65 (D. Mass. 1992).)

It is not frivolous for the Petitioner to claim that Judge Evans erred by improper consideration of recusal under 28 U.S.C. § 144. The law is clear. (***Christo v. Padgett***, 223 F.3d 1324, 1328, 1329 (11th Cir. 2000); ***United States v. Azhocar***, 581 F.2d 735, 738-40 (9th Cir. 1978), cert. denied, 440 U.S. 907, 99 S.Ct. 1213, 59 L.Ed.2d 454 (1979) at 738; ***Recusal: Analysis of Case Law under U.S.C. §455 and 144***, Page 50, Federal Judicial Center, 2002; ***United States v. Alabama***, 828 F.2d 1532, 1540 (11th Cir. 1987), ***cert.denied***, 487 U.S. 1210 (1988).); ***Berger v. United States***, 255 U.S. 22, 36, 41 S.Ct. 230, 234, 65 L.Ed.481).)

It is not frivolous for the Petitioner to claim that his civil and Constitutional rights were violated. (***Johnson v. Mississippi***, 403 U.S. 212, 216 (1971); ***Peters v. Kiff***., 407, U.S. 493, 502 (1972).)

The reasons the Appeal was not frivolous are detailed in the Motion for Reconsideration filed with the 11th Circuit on September 15, 2009 (Pet. App. 228) and the other documents filed by the Petitioner provided in the Appendix.

CONCLUSION

For all the above reasons, the Petitioner now respectfully prays that this Court grant a Writ for Certiorari to review the judgment and opinion of the Eleventh Circuit.

This Court has said that decisions must be explained, but the October 2009 decision in ***Corcoran v. Levenhagen***, supra, needs to be emphasized by granting this Petition for Writ of Certiorari so the Eleventh Circuit and the other circuits will get the message.

This Court should mandate that charges of perjury and fraud upon the court be heard at an evidentiary hearing.

The Petitioner asks that this Court consider ordering that Judge Evans be disqualified and that the underlying case be reopened with an evidentiary hearing. (See ***Roadway Express, Inc. v. Piper***, 447 U.S. 752,_764, 765 (1980).)